Supreme Court, U.S.
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No. 00-1045

IN THE

Supreme Court of the United States

TRW INC.,

Petitioner,

v.

ADELAIDE ANDREWS,

Respondent.

On Writ of Certiorari
to the United States Court of Appeals
for the Ninth Circuit

JOINT APPENDIX

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3.	3/21/97	Answer by Trans Union Corp.
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12. 2/23/98 Declaration of David Goldston in Support of Motion by Defendant TRW Inc. for Partial Summary Judgment

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15. 2/23/98 Memorandum of Points and Authorities by Defendant Trans Union Corp. in Support of Motion for Summary Judgment (filed under seal)

16. 2/23/98 Declaration of Michael O'Neil for Defendant Trans Union Corp. (filed under seal)

17. 2/23/98 Declaration of David Browne in Support of Motion by Defendant TRW Inc. for Partial Summary Judgment (filed under seal)

18. 2/23/98 Declaration of Kevin Lussier for Defendant TRW Inc. (filed under seal)

19. 3/2/98 Opposition by Plaintiff to TRW's Motion for Partial Summary Judgment (filed under seal)

20. 3/2/98 Opposition by Plaintiff to Trans Union's Motion for Summary Judgment (filed under seal)

21. 3/2/98 Statement of Genuine Issues in Opposition to TRW's Motion for Summary Judgment (filed under seal)

22. 3/2/98 Declaration of Douglas Stott Parker, Jr., in Opposition to TRW's Motion for Partial Summary Judgment (filed under seal)

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45. 7/23/98 Notice of Dismissal as to Defendant Trans Union Corp.

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6. 1/14/00 Letter Brief from Daniel J. McLoon Advising the Court of a Recent Opinion in *Washington v. CSC Credit Services* That Is Relevant to the Issues Being Addressed in this Appeal

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11. 10/4/00 Order and Amended Opinion

12. 10/26/00 Mandate Issued

[Dated October 21, 1996]

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT

ADELAIDE ANDREWS,
Plaintiff

v.

TRANS UNION CORPORATION, INC. and TRW, INC.
Defendants.

CASE NO. 96-7369 LGB (VAPx)

COMPLAINT
(DEMAND FOR JURY TRIAL)

Plaintiff, Adelaide Andrews hereby alleges against all Defendants as follows:

I.

JURISDICTION AND VENUE

1. This action arises under 15 U.S.C. §§ 1681b, 1681e(a), 1681e(b) and 1681i(a). Accordingly, jurisdiction in this Court exists under 15 U.S.C. § l68lp and under the general federal question jurisdiction statute, 28 U.S.C. § 1331. Jurisdiction over Plaintiff's supplemental state law cause of action exists under 28 U.S.C. § 1367.

2. Venue is appropriate in this Court under 28 U.S.C. § 1391(b)(2), in that both Defendants reside, as that term is defined in 28 U.S.C. § 1391(b)(3), in the Central District of California and a substantial part of the events giving rise to the claim occurred within the Central District of California.

II.

INTRODUCTION

3. The computerization of our society has resulted in a revolutionary increase in the accumulation and processing of data concerning individual citizens. Data technology, whether it is used by criminal law enforcement, businesses, banks, the Internal Revenue Service or other institutions, allows information concerning individuals to flow immediately to requesting parties. Such timely information is intended to lead to faster and better decisions by its recipients, and all of society should benefit from the resulting convenience and efficiency. Unfortunately, however, individuals can sustain substantial damage whenever inaccurate information is entered into and disseminated from these types of data bases.

4. The ongoing technological advances in the area of data processing have resulted in a boon for the companies that accumulate and sell data concerning individuals' credit histories. Such companies are commonly known as credit reporting agencies ("CRAs," or individually, a "CRA"). Two of the three most prominent of the nation's CRAs are the Defendants in this action. These CRAs sell to readily paying subscribers (i.e., retailers, landlords, lenders, potential employers, and similar interested parties) information, commonly called "credit reports," concerning individuals who may be applying for retail credit, to lease an apartment, to obtain a mortgage or employment, or the like.

5. Since 1970, when Congress enacted the Fair Credit Reporting Act, as amended, 15 U.S.C. §§ 1681 *et seq.* ("FCRA"), federal law has required CRAs to have in place and to utilize reasonable procedures *"to assure the maximum possible accuracy"* of personal financial information in their credit reports. The FCRA sets forth this and many other requirements for CRAs' operations. For example, in addition to requiring that a CRA have in place reasonable procedures to

assure that each credit report will be accurate, the FCRA requires CRAs to reinvestigate information concerning an individual who lodges a dispute with the respective CRA.

6. This action seeks injunctive relief to compel the Defendant CRAs to comply with federal law, as well as compensatory and punitive damages, costs of suit and reasonable attorneys' fees for Plaintiff resulting from Defendants' failure to abide by the requirements of the FCRA. In particular, this action seeks such relief claiming:

(i) that Plaintiff was the victim of a fraud by which a person not previously known by Plaintiff (hereinafter "impostor") misappropriated Plaintiff's Social Security number;

(ii) that said impostor defrauded various commercial enterprises, including retail stores and utilities, and that each of the Defendants, in violation of 15 U.S.C. §§ 1681b and 168le(a), disclosed historical credit information concerning Plaintiff to some or all of the commercial enterprises who were eventually defrauded—which contributed to these enterprises' extension of credit to the person committing the fraud—without maintaining reasonable procedures to assure that Plaintiff's private credit information was furnished only to persons reasonably believed to be using the information in a credit transaction involving Plaintiff;

(iii) that resulting credit delinquencies arising from the fraud were inaccurately attributed to Plaintiff by each of the Defendants, and that each of the Defendants failed to follow reasonable procedures to prevent credit delinquencies arising from such fraud from inaccurately affecting its credit reports concerning Plaintiff, in violation of 15 U.S.C. § 1681e(b); and

(iv) that Defendant Trans Union failed to comply with 15 U.S.C. § 1681i(a) in a timely fashion after Plaintiff disputed, in writing to Trans Union, the credit reports issued by Defendant Trans Union.

7. Based upon each Defendants' violations of the FCRA, Plaintiff has expended significant time and money attempting to correct this situation, and has suffered substantial commercial impairment, inconvenience, emotional distress, including physical manifestations of such distress, embarrassment and humiliation over a period lasting longer than one year. Therefore, Plaintiff now prays for (1) injunctive relief requiring each of the Defendants to adopt reasonable procedures in compliance with the mandates of the FCRA, (2) compensatory and punitive damages from each of the Defendants as more specifically set forth below, (3) reasonable attorneys' fees and costs of suit, and (4) such other relief as the Court may find appropriate.

III.
PARTIES

8. Plaintiff Adelaide Andrews was a resident of Santa Monica, California during the time in which a substantial part of the events or omissions giving rise to the claim occurred. Plaintiff currently resides in Encinitas, California. Plaintiff is informed and believes that, prior to the events giving rise to this action, Plaintiff had not been the subject of the reporting of significant negative financial information by Defendants.

9. Defendant Trans Union Corporation ("Trans Union") is a corporation headquartered in Chicago, Illinois and domiciled in the State of Delaware. Trans Union is in the business of providing credit reports concerning individuals and businesses to commercial users nationwide. Trans Union is a wholly-owned, tiered subsidiary of The Marmon Group, Inc., a privately-held corporation that is also headquartered in Chicago, Illinois and domiciled in the State of Delaware. The

Marmon Group, Inc. generates consolidated revenues in excess of $4 billion annually.

10. Defendant TRW Inc. ("TRW") is a corporation headquartered in Cleveland, Ohio and domiciled in the State of Ohio. Through its TRW Credit Data Division, TRW was, at all times relevant to this complaint, in the business of providing credit reports concerning individuals and businesses to commercial users nationwide. TRW has consolidated revenues in excess of $8 billion annually.

IV.

FACTS

11. On or about May 31, 1995, Plaintiff met with a loan officer at Home Savings to inquire about a residential mortgage. That officer, Kyle Beavert, ordered and received a copy of her credit report through Chase Credit Research. The Chase Credit Research credit report indicated that Defendants TRW and Trans Union were reporting that Plaintiff had a delinquent account with Dillard's Department Store.

12. Plaintiff has never applied for or maintained a consumer credit account with Dillard's.

13. Immediately thereafter, Plaintiff contacted each Defendant by telephone to inform them of this error. During the course of her conversations with Defendants' representatives, Plaintiff learned that she was a victim of identity fraud, in that someone unknown to her had assumed her identity and applied for, and opened, credit accounts in her name.

14. Upon further investigation, Plaintiff learned that the Dillard's account had been opened in Las Vegas, Nevada, by a woman using Plaintiff's Social Security number and representing herself as *Andrea* Andrews, birth date December 9, 1967, and residing at 4201 S. Decatur Blvd., Apartment 2202, Las Vegas, Nevada, 89103. Plaintiff is *Adelaide*

Andrews. Her birth date is June 23, 1963, and, at the time of this application for credit, resided at 150 Hollister Avenue, Santa Monica, 90405. Thus, other than the social security number and last name, no other information provided to Dillard's by the impostor in connection with the fraudulently opened account matched Plaintiff's: the first name, driver's license number, credit card account number, date of birth, place of employment, home address and home and work telephone numbers.

15. Armed with only a correct Social Security number and last name, Defendant Trans Union released to Dillard's a credit report permitting the impostor to open an account in Plaintiff's name.

16. Upon further investigation, Plaintiff discovered that four other fraudulent credit accounts, Express Department Stores, Prime Cable of Las Vegas, FCNB Preferred Charge and Commercial Credit, had been opened in Plaintiff's name by an impostor. Each of those accounts were opened by commercial enterprises to whom Defendant TRW had provided Plaintiff's personal credit history. Plaintiff has never transacted business that would have given rise to the credit inquiries of the fraudulent accounts reported by TRW. Upon information and belief, those accounts were opened by commercial enterprises who had no correct identifying information concerning Plaintiff other than her social security number and last name. Upon information and belief, Defendant TRW disclosed Plaintiff's personal credit history, and each of those commercial enterprises opened accounts, based upon the same or similar insufficient indicia of Plaintiff's identity that was utilized to open the Dillard's account.

17. After discovering this apparent fraud, Plaintiff contacted Defendants TRW and Trans Union in writing and by telephone to request that they remove any references to these fraudulent credit accounts. Following these contacts, and within 30 days from her initial contact, Defendant TRW

deleted references from Plaintiff's file to these fraudulent accounts. Defendant Trans Union, however, refused to remove from Plaintiffs file information concerning these fraudulent accounts. Failing to conduct an adequate reinvestigation of Plaintiff's dispute, Defendant Trans Union insisted that the Dillard's account remain on her credit report until Dillard's contacted Trans Union and told them to remove the incorrect information. Defendant Trans Union tried to shift to Plaintiff the responsibility for reinvestigation and for following reasonable procedures to assure maximum possible accuracy by directing her to work with Dillard's to prove that the account was fraudulent.

18. Although the notice of delinquent account status regarding Dillard's has since been removed from Plaintiff's Trans Union file, Dillard's is still identified on Plaintiff's consumer file disclosure as a retailer who made an inquiry concerning Plaintiff's credit status.

19. As a direct result of the failure on the part of each of the Defendants to fulfill their respective obligations under the FCRA, Plaintiff has expended significant amounts of time and money and has suffered substantial and long-standing commercial impairment, inconvenience, emotional distress, including physical manifestations of such distress, embarrassment and humiliation.

20. There now exists an actual controversy between Plaintiff and each of Defendants regarding each Defendant's duty under the FCRA and their fulfillment thereof.

21. Unless enjoined, Defendants will continue to engage in the unlawful acts described above. Plaintiff has no adequate remedy at law. Plaintiff is now suffering and will continue to suffer irreparable injury from the acts of each Defendant unless relief is provided by this Court.

V.

FIRST CLAIM

FOR VIOLATION OF 15 U.S.C §§ 1681b and 1681e(a)

(Against Both Defendants)

22. Plaintiff incorporates by reference every allegation set forth above in paragraphs 1 through 21.

23. Defendants Trans Union and TRW have each furnished consumer reports concerning Plaintiff to commercial enterprises, without reasonable grounds for believing that the consumer reports were to be used in connection with a credit transaction involving Plaintiff, in violation of 15 U.S.C. §§ 1681b and 1681e(a).

24. On information and belief, Defendants' respective failure to comply with the requirements of 15 U.S.C. § 168le(a) concerning Plaintiff was willful, in that each refused, in conscious disregard of the rights of Plaintiff, to implement and maintain reasonable procedures to ensure that Plaintiff's confidential consumer credit information would not be disclosed without reasonable grounds for believing that the consumer reports were to be used in connection with a credit transaction involving Plaintiff.

25. As a result of Defendants' respective actions and/or omissions contrary to 15 U.S.C. §§ 1681b and 168le(a), Plaintiff has suffered damages, including, without limitation, a significant expenditure of time and money, commercial impairment, inconvenience, embarrassment, humiliation and emotional distress, including physical manifestations of such distress, over a period lasting longer than one year, in an amount according to proof.

26. As a result of Defendants' respective actions and omissions contrary to 15 U.S.C. §§ 1681b and 1681e(a), Plaintiff is entitled to: (i) injunctive relief requiring Defendants

to adopt reasonable procedures in compliance with the mandate of 15 U.S.C. §§ 1681b and 1681e(a), in as much as Defendants' respective procedures pose an imminent threat of recurrence of injury, (ii) actual damages sustained by Plaintiff pursuant to 15 U.S.C. § 1681o(1); (iii) punitive damages pursuant to 15 U.S.C. § 1681n(2); and (iv) reasonable attorneys' fees and costs of suit pursuant to 15 U.S.C. § 1681o(2).

VI.

SECOND CLAIM

FOR VIOLATION OF 15 U.S.C § 1681e(b)

(Against Both Defendants)

27. Plaintiff incorporates by reference every allegation set forth above in paragraphs 1 through 21.

28. Defendants Trans Union and TRW have each failed to maintain and follow "reasonable procedures to assure maximum possible accuracy of the information concerning" Plaintiff, in violation of 15 U.S.C. § 1681e(b).

29. On information and belief, Defendants' respective failure to comply with the requirements of 15 U.S.C. § 1681e(b) concerning Plaintiff was willful, in that they each refused, in conscious disregard of the rights of Plaintiff, to implement and maintain reasonable procedures to ensure maximum possible accuracy.

30. As a result of Defendants' respective actions and/or omissions contrary to 15 U.S.C. § 1681e(b), Plaintiff has suffered damages, including, without limitation, expenditure of significant time and money, commercial impairment, inconvenience, embarrassment, humiliation and emotional distress, including physical manifestations of such distress, over a period lasting longer than one year, in an amount according to proof. As a result of Defendants' respective actions and

omissions contrary to 15 U.S.C. § 1681e(b), Plaintiff is entitled to: (i) injunctive relief requiring Defendants to adopt reasonable procedures in compliance with the mandate of 15 U.S.C. § 1681e(b), in as much as Defendants' respective procedures pose an imminent threat of recurrence of injury; (ii) actual damages sustained by Plaintiff pursuant to 15 U.S.C. § 1681o(1); (iii) punitive damages pursuant to 15 U.S.C. § 1681n(2); and (iv) reasonable attorneys' fees and costs of suit pursuant to 15 U.S.C. § 1681o(2).

VII.

THIRD CLAIM

FOR VIOLATION OF 15 U.S.C. § 1681i(a)

(Against Defendant Trans Union)

31. Plaintiff incorporates by reference every allegation set forth above in paragraphs 1 through 21.

32. Defendant Trans Union has failed to (i) reasonably reinvestigate—within a reasonable amount of time following Plaintiff's correspondence disputing such information—information inaccurately attributed to Plaintiff, and (ii) promptly delete such misinformation as could not be verified, all in violation of 15 U.S.C. § 1681i(a).

33. On information and belief, Defendant Trans Union's failure to comply with the requirements of 15 U.S.C. § 1681i(a) concerning Plaintiff was willful, in that it refused, in conscious disregard of the rights of Plaintiff, to conduct a reasonable reinvestigation and remove inaccurate information from reports concerning Plaintiff following Plaintiff's having repeatedly disputed said inaccurate information.

34. As a result of Defendant Trans Union's actions and/or omissions contrary to 15 U.S.C. § 1681i(a), Plaintiff has suffered harm, including, without limitation, expenditure of significant time and money, commercial impairment,

inconvenience, embarrassment, humiliation and emotional distress, including physical manifestations of such distress, over a period lasting longer than one year, in an amount according to proof.

35. As a result of Defendant Trans Union's actions or omissions contrary to 15 U.S.C. § 168li(a), Plaintiff is entitled to: (i) injunctive relief requiring Defendant Trans Union to adopt and implement reasonable procedures in compliance with the mandate of 15 U.S.C. § 168li(a), in as much as the Defendant Trans Union's procedures pose an imminent threat of recurrence of injury to Plaintiff; (ii) actual damages sustained by Plaintiff pursuant to 15 U.S.C. § 168lo(l) or 15 U.S.C. § 1681n(1); (iii) punitive damages pursuant to 15 U.S.C. § 1681n(2); and (iv) reasonable attorneys' fees and costs of suit pursuant to 15 U.S.C. § 1681o(2) or 15 U.S.C. § 168ln(3).

VIII.

FOURTH CLAIM

FOR VIOLATION OF CALIFORNIA

BUSINESS & PROFESSIONS CODE §§ 17200 ET SEQ.

(Against Both Defendants)

36. Plaintiff incorporates by reference every allegation set forth above in paragraphs 1 through 35.

37. Defendants' acts and omissions alleged are a violation of statutory requirements as described above in Claims One, Two and Three and therefore constitute a violation of California Business & Professions Code sections 17200 *et seq.*

38. Plaintiff seeks judgment relief on her own behalf, as well as on behalf of the general public pursuant to Business & Professions Code section 17204.

39. Failure to enjoin Defendants' acts and/or failures to act would result in irreparable injury and Plaintiff has no other adequate remedy at law.

40. As a result of Defendants' acts and/or failures to act contrary to California Business & Professions Code sections 17200 *et seq.*, Plaintiff is entitled to injunctive relief, on her own behalf and on behalf of the general public, pursuant to Business & Professions Code sectior 17203, and to disgorgement of any contribution to Defendants' profits resulting from Defendants' unlawful acts or failures to act.

IX.

DEMAND FOR JURY TRIAL

41. Plaintiff hereby demands a jury trial.

X.

PRAYER

42. Plaintiff prays for judgment against Defendants Trans Union and TRW as follows:

(1) Injunctive relief requiring Defendants Trans Union and TRW to adopt and implement reasonable procedures in compliance with the mandates of 15 U.S.C. §§ 168lb, 1681e(a) and 168le(b), including, without limitation, requiring a sufficient number of corresponding points of reference before (i) disseminating an individual's credit history to an inquiring party who is using such information in connection with the extension of credit, or (iii) attributing information to an individual's credit file;

(2) Injunctive relief requiring Defendant Trans Union to adopt and implement reasonable procedures in compliance with the mandates of 15 U.S.C. § 168li(a), including, without limitation, procedures to assure that information related to the misappropriation of an individual's identity is promptly

reinvestigated in a manner sufficient to reveal and correct misinformation;

(3) A declaration that each Defendant has failed to maintain and implement procedures that comply the applicable federal credit reporting laws;

(4) Actual damages against each Defendant in an amount to be determined at trial;

(5) Punitive damages against each Defendant in an amount to be determined at trial;

(6) Disgorgement of any contribution to profits resulting from Defendants' failure to comply with California Business & Professions Code §§ 17200 *et seq.;*

(7) Reasonable attorneys' fees and costs of suit from Defendants pursuant to either 15 U.S.C. § 168lo(2) or 15 U.S.C. § 1681n(3) and California Code of Civil Procedure section 1021.5;

(8) Such other relief as the Court may deem proper.

Dated: October 21, 1996

HALL & ASSOCIATES
Carlyle W. Hall, Jr.
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Gus T. May
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By: /s/ Gus T. May
Gus T. May
Attorneys for Plaintiff

[Dated March 13, 1997]

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ADELAIDE ANDREWS,
Plaintiff,
v.
TRANS UNION CORPORATION, INC. and TRW, INC.,
Defendants.

CASE NO. 96-7369 LGB(VAPx)

ANSWER OF DEFENDANT TRW INC. TO PLAINTIFF'S COMPLAINT

NOW COMES defendant TRW Inc. (hereinafter referred to as "TRW"), an Ohio corporation, for itself and itself alone, and severing itself from the remaining defendants in answer to Plaintiff's complaint herein (hereinafter referred to as the "Complaint"), and avers as follows:

1. In response to paragraph 1 of the Complaint, TRW admits the factual averments contained therein.

2. In response to paragraph 2 of the Complaint, TRW admits the factual averments contained therein.

3. In response to paragraph 3 of the Complaint, TRW avers that the paragraph contains numerous expressions of opinion rather than averments of fact, and as such are incapable of admission or denial. For example, the characterization of alleged changes as "revolutionary" is not an objective fact that can either be admitted or denied. To the extent that these averments relate to "data," "data technology," and "data bases" that do not involve consumer credit information maintained by credit reporting agencies, TRW is without knowledge or information sufficient to form a belief as to the truth of such

factual averments and, on that basis, denies each and every such factual averment. Except as otherwise admitted expressly in this response, TRW denies each and every remaining factual averment in paragraph 3 of the Complaint.

4. In response to paragraph 4 of the Complaint, TRW denies that it currently is a credit reporting agency. TRW admits that, prior to September 19, 1996, it was a credit reporting agency and that, prior to that same date, TRW could accurately be described as one of the country's three largest credit reporting agencies. TRW admits that, during the period it was a credit reporting agency, it allowed subscribers access to its consumer credit files for specified fees and on terms and conditions established by written agreements with such subscribers, which terms and conditions were consistent with the provisions of the Fair Credit Reporting Act. Except as otherwise admitted expressly in this response, TRW denies each and every remaining factual averment contained in paragraph 4 of the Complaint.

5. In response to paragraph 5 of the Complaint, TRW avers that the provisions of the Fair Credit Reporting Act and their application are legal matters and not factual matters that are capable of admission or denial. Except as otherwise admitted expressly in this response, TRW denies each and every remaining factual averment contained in paragraph 5 of the Complaint.

6. In response to paragraph 6 of the Complaint, TRW avers that the relief plaintiff is seeking in this action is set forth in her Complaint, the contents of which speak for themselves. Except as otherwise admitted expressly in this response, TRW denies each and every factual averment contained in the first sentence of paragraph 6. TRW is without knowledge or information sufficient to form a belief as to the truth of the factual averments contained in paragraph 6(i) and, on that basis, denies each such factual averment. TRW denies each and every factual averment contained in paragraphs 6(ii)-(iv) to

the extent that such averments are directed to TRW. To the extent that the averments contained in paragraphs 6(ii)-(iv) relate to a credit reporting agency other than TRW, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment. Except as otherwise admitted expressly herein, TRW denies each and every remaining factual averment contained in paragraph 6 of the Complaint.

7. In response to paragraph 7 of the Complaint, TRW avers that the relief plaintiff is seeking in this action is set forth in her Complaint, the contents of which speak for themselves, but TRW denies that plaintiff is entitled to any relief whatsoever from TRW. To the extent that the averments contained in paragraph 7 relate to a credit reporting agency other than TRW, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment. Except as otherwise admitted expressly herein, TRW denies each and every remaining factual averment contained in paragraph 7 of the Complaint.

8. In response to paragraph 8 of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

9. In response to paragraph 9 of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such averment.

10. In response to paragraph 10 of the Complaint, TRW admits that it is and, at all times relevant hereto, has been an Ohio corporation, with its principal place of business in Ohio. TRW further admits that, prior to September 19, 1996, it was a credit reporting agency and, as such, provided credit reports

to its subscribers nationwide. TRW further admits that, in its last fiscal year, it had consolidated revenues in excess of $8 billion. Except as specifically admitted herein, TRW generally and specifically denies each and every remaining factual averment in paragraph 10 of the Complaint.

11. In response to paragraph 11 of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such averment.

12. In response to paragraph 12 of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

13. In response to paragraph 13 of the Complaint, TRW admits that Plaintiff contacted TRW by telephone on May 31, 1995, and requested a disclosure of her credit profile. As to the remaining factual averments in this paragraph of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

14. In response to paragraph 14 of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

15. In response to paragraph 15 of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

16. In response to paragraph 16 of the Complaint, TRW admits that it has provided credit reports containing certain of Plaintiff's credit information to Express Department Stores, Prime Cable of Las Vegas, FCNB Preferred Charge and

Commercial Credit. As to the remaining factual averments in this paragraph of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

17. In response to paragraph 17 of the Complaint, TRW admits that it performed a prompt reinvestigation at Plaintiff's request of items of information appearing on Plaintiff's credit profile in response to disputes submitted by Plaintiff, and that such reinvestigation complied with applicable state and federal law. As a result of its reinvestigation, TRW was unable to verify the accuracy of certain items of credit information that appeared in Plaintiff's credit profile and, as such, TRW deleted such information from Plaintiff's credit profile. As to the remaining factual averments in this paragraph of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

18. In response to paragraph 18 of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

19. In response to paragraph 19 of the Complaint, TRW denies each and every factual averment contained therein to the extent such averments are directed to TRW. As to the remaining factual averments in this paragraph of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

20. In response to paragraph 20 of the Complaint, TRW denies each and every factual averment contained therein to the extent such averments are directed to TRW. As to the remaining factual averments in this paragraph of the Complaint, TRW is without knowledge or information sufficient to form

a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

21. In response to paragraph 21 of the Complaint, TRW denies each and every factual averment contained therein to the extent such averments are directed to TRW, and further denies that Plaintiff has been injured or damaged as a proximate consequence of any act or omission of TRW. As to the remaining factual averments in this paragraph of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

22. In response to paragraph 22 of the Complaint, TRW incorporates herein by reference its responses to paragraphs 1 through 21 above.

23. In response to paragraph 23 of the Complaint, TRW denies each and every factual averment contained therein to the extent such averments are directed to TRW. As to the remaining factual averments in this paragraph of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

24. In response to paragraph 24 of the Complaint, TRW denies each and every factual averment contained therein to the extent such averments are directed to TRW. As to the remaining factual averments in this paragraph of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

25. In response to paragraph 25 of the Complaint, TRW denies each and every factual averment contained therein to the extent such averments are directed to TRW, and further denies that Plaintiff has been injured or damaged as a proximate consequence of any act or omission of TRW. As to the remaining factual averments in this paragraph of the Complaint,

TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

26. In response to paragraph 26 of the Complaint, TRW denies each and every factual averment contained therein to the extent such averments are directed to TRW, and further denies that Plaintiff has been injured or damaged as a proximate consequence of any act or omission of TRW. As to the remaining factual averments in this paragraph of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

27. In response to paragraph 27 of the Complaint, TRW incorporates herein by reference its responses to paragraphs 1 through 21 above.

28. In response to paragraph 28 of the Complaint, TRW denies each and every factual averment contained therein to the extent such averments are directed to TRW. As to the remaining factual averments in this paragraph of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

29. In response to paragraph 29 of the Complaint, TRW denies each and every factual averment contained therein to the extent such averments are directed to TRW. As to the remaining factual averments in this paragraph of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

30. In response to paragraph 30 of the Complaint, TRW denies each and every factual averment contained therein to the extent such averments are directed to TRW, and further denies that Plaintiff has been injured or damaged as a proximate consequence of any act or omission of TRW. As to the

remaining factual averments in this paragraph of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

31. In response to paragraph 31 of the Complaint, TRW incorporates herein by reference its responses to paragraphs 1 through 21 above.

32. In response to paragraph 32 of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

33. In response to paragraph 33 of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

34. In response to paragraph 34 of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

35. In response to paragraph 35 of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

36. In response to paragraph 36 of the Complaint, TRW incorporates herein by reference its responses to paragraphs 1 through 35 above.

37. In response to paragraph 37 of the Complaint TRW denies each and every factual averment contained therein to the extent such averments are directed to TRW. As to the remaining factual averments in this paragraph of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

38. In response to paragraph 38 of the Complaint, TRW admits that Plaintiff seeks judgment relief on her own behalf, as well as on behalf of the general public pursuant to Business & Professions Code section 17204. Except as specifically admitted herein, TRW generally and specifically denies each and every remaining factual averment in paragraph 38 of the Complaint.

39. In response to paragraph 39 of the Complaint, TRW denies each and every factual averment contained therein to the extent such averments are directed to TRW. As to the remaining factual averments in this paragraph of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

40. In response to paragraph 40 of the Complaint, TRW denies each and every factual averment contained therein to the extent such averments are directed to TRW. As to the remaining averments in this paragraph of the Complaint, TRW is without knowledge or information sufficient to form a belief as to the truth of such factual averments and, on that basis, denies each and every such factual averment.

41. In response to paragraph 41 of the Complaint, TRW avers that Plaintiff has purported to demand a jury trial, but has not done so in the proper format. TRW further denies that Plaintiff is entitled to a jury trial with respect to certain claims and forms of requested relief contained in the Complaint.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

(Failure To State A Claim)

42. The First Claim of Plaintiff's Complaint fails to state a claim upon which relief may be granted in favor of Plaintiff and against TRW.

SECOND AFFIRMATIVE DEFENSE

(Failure To State A Claim)

43. The Second Claim of Plaintiff's Complaint fails to state a claim upon which relief may be granted in favor of Plaintiff and against TRW.

THIRD AFFIRMATIVE DEFENSE

(Failure To State A Claim)

44. The Fourth Claim of Plaintiff's Complaint fails to state a claim upon which relief may be granted in favor of Plaintiff and against TRW.

FOURTH AFFIRMATIVE DEFENSE

(Acts Of Third Parties)

45. TRW alleges that any purported damages to Plaintiff are the result of acts or omissions of third persons over and with respect to whom TRW had neither control nor responsibility.

FIFTH AFFIRMATIVE DEFENSE

(Comparative Fault)

46. Upon information and belief, Plaintiff was negligent, careless, or otherwise at fault in and about the matters referenced in the Complaint, and such negligence, carelessness or fault proximately caused or contributed to the events, injuries, and damages complained of by Plaintiff, if any there were, and either bars or proportionally reduces any potential recovery of Plaintiff.

SIXTH AFFIRMATIVE DEFENSE

(Failure To Mitigate)

47. Upon information and belief, Plaintiff has failed and neglected to use reasonable care to protect herself to minimize

losses and damages complained of, if any there were, and is therefore barred from recovery of such damages, if any.

SEVENTH AFFIRMATIVE DEFENSE

(Contribution And Indemnity)

48. In the event TRW has liability to Plaintiff, which liability is expressly denied, and in the event any other party is determined to be liable, TRW is entitled to percentage contribution or to partial or total equitable indemnity from such party, in accordance with the principles of equitable indemnity and comparative contribution.

EIGHTH AFFIRMATIVE DEFENSE

(Statute Of Limitations)

49. Any and all claims for relief in the Complaint herein are barred by the provisions of 15 U.S.C. § 1681p, the applicable statute of limitations.

WHEREFORE, Defendant TRW Inc. prays as follows:

1. That Plaintiff take nothing by virtue of the Complaint herein and that this action be dismissed in its entirety;

2. For costs of suit; and

3. For such other and further relief as the Court may deem just and proper.

Dated: March 13, 1997

JONES, DAY, REAVIS & POGUE

By: /s/ Kevin R. Lussier
Kevin R. Lussier
Attorneys for Defendant
TRW INC.

UNITED STATES CODE
TITLE 15. COMMERCE AND TRADE
CHAPTER 41– CONSUMER CREDIT PROTECTION
SUBCHAPTER III – CREDIT REPORTING AGENCIES

§ 1681. Congressional findings and statement of purpose

(a) Accuracy and fairness of credit reporting

The Congress makes the following findings:

(1) The banking system is dependent upon fair and accurate credit reporting. Inaccurate credit reports directly impair the efficiency of the banking system, and unfair credit reporting methods undermine the public confidence which is essential to the continued functioning of the banking system.

(2) An elaborate mechanism has been developed for investigating and evaluating the credit worthiness, credit standing, credit capacity, character, and general reputation of consumers.

(3) Consumer reporting agencies have assumed a vital role in assembling and evaluating consumer credit and other information on consumers.

(4) There is a need to insure that consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy.

(b) Reasonable procedures

It is the purpose of this subchapter to require that consumer reporting agencies adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, and other information in a manner which is fair and equitable to the consumer, with regard to the confidentiality,

accuracy, relevancy, and proper utilization of such information in accordance with the requirements of this subchapter.

§ 1681a. Definitions; rules of construction

(a) Definitions and rules of construction set forth in this section are applicable for the purposes of this subchapter.

(b) The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

(c) The term "consumer" means an individual.

(d) Consumer report.

(1) In general. The term "consumer report" means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for –

(A) credit or insurance to be used primarily for personal, family, or household purposes;

(B) employment purposes; or

(C) any other purpose authorized under section 1681b of this title.

(2) Exclusions. The term "consumer report" does not include –

(A) any –

(i) report containing information solely as to transactions or experiences between the consumer and the person making the report;

(ii) communication of that information among persons related by common ownership or affiliated by corporate control; or

(iii) communication of other information among persons related by common ownership or affiliated by corporate control, if it is clearly and conspicuously disclosed to the consumer that the information may be communicated among such persons and the consumer is given the opportunity, before the time that the information is initially communicated, to direct that such information not be communicated among such persons;

(B) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device;

(C) any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his or her decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made, and such person makes the disclosures to the consumer required under section 1681m of this title; or

(D) a communication described in subsection (o) of this section.

(e) The term "investigative consumer report" means a consumer report or portion thereof in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom he is acquainted or who may have knowledge concerning any such items of information. However, such information shall not include specific factual information on a consumer's credit record obtained directly from a creditor of the consumer or from a consumer reporting agency when such information was

obtained directly from a creditor of the consumer or from the consumer.

(f) The term "consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

(g) The term "file", when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by a consumer reporting agency regardless of how the information is stored.

(h) The term "employment purposes" when used in connection with a consumer report means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment or retention as an employee.

(i) The term "medical information" means information or records obtained, with the consent of the individual to whom it relates, from licensed physicians or medical practitioners, hospitals, clinics, or other medical or medically related facilities.

(j) Definitions relating to child support obligations

(1) Overdue support

The term "overdue support" has the meaning given to such term in section 666(e) of Title 42.

(2) State or local child support enforcement agency

The term "State or local child support enforcement agency" means a State or local agency which administers a State or local program for establishing and enforcing child support obligations.

(k) Adverse action.

(1) Actions included. The term "adverse action" –

(A) has the same meaning as in section 1691(d)(6)of this title; and

(B) means –

(i) a denial or cancellation of, an increase in any charge for, or a reduction or other adverse or unfavorable change in the terms of coverage or amount of, any insurance, existing or applied for, in connection with the underwriting of insurance;

(ii) a denial of employment or any other decision for employment purposes that adversely affects any current or prospective employee;

(iii) a denial or cancellation of, an increase in any charge for, or any other adverse or unfavorable change in the terms of, any license or benefit described in section 1681b(a)(3)(D) of this title; and

(iv) an action taken or determination that is –

(I) made in connection with an application that was made by, or a transaction that was initiated by, any consumer, or in connection with a review of an account under section 1681b(a)(3)(F)(ii) of this title; and

(II) adverse to the interests of the consumer.

(2) Applicable findings, decisions, commentary, and orders. For purposes of any determination of whether an action is an adverse action under paragraph (1)(A), all appropriate final findings, decisions, commentary, and orders issued under section 1691(d)(6) of this title by the Board of Governors of the Federal Reserve System or any court shall apply.

(l) Firm offer of credit or insurance. The term "firm offer of credit or insurance" means any offer of credit or insurance to a consumer that will be honored if the consumer is determined, based on information in a consumer report on the consumer, to meet the specific criteria used to select the consumer for the offer, except that the offer may be further conditioned on one or more of the following:

(1) The consumer being determined, based on information in the consumer's application for the credit or insurance, to meet specific criteria bearing on credit worthiness or insurability, as applicable, that are established –

(A) before selection of the consumer for the offer; and

(B) for the purpose of determining whether to extend credit or insurance pursuant to the offer.

(2) Verification –

(A) that the consumer continues to meet the specific criteria used to select the consumer for the offer, by using information in a consumer report on the consumer, information in the consumer's application for the credit or insurance, or other information bearing on the credit worthiness or insurability of the consumer; or

(B) of the information in the consumer's application for the credit or insurance, to determine that the consumer meets the specific criteria bearing on credit worthiness or insurability.

(3) The consumer furnishing any collateral that is a requirement for the extension of the credit or insurance that was –

(A) established before selection of the consumer for the offer of credit or insurance; and

(B) disclosed to the consumer in the offer of credit or insurance.

(m) Credit or insurance transaction that is not initiated by the consumer. The term "credit or insurance transaction that is not initiated by the consumer" does not include the use of a consumer report by a person with which the consumer has an account or insurance policy, for purposes of –

(1) reviewing the account or insurance policy; or

(2) collecting the account.

(n) State. The term "State" means any State, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States.

(o) Excluded communications. A communication is described in this subsection if it is a communication –

(1) that, but for subsection (d)(2)(D) of this section, would be an investigative consumer report;

(2) that is made to a prospective employer for the purpose of –

(A) procuring an employee for the employer; or

(B) procuring an opportunity for a natural person to work for the employer;

(3) that is made by a person who regularly performs such procurement;

(4) that is not used by any person for any purpose other than a purpose described in subparagraph (A) or (B) of paragraph (2); and

(5) with respect to which –

(A) the consumer who is the subject of the communication –

(i) consents orally or in writing to the nature and scope of the communication, before the collection of any information for the purpose of making the communication;

(ii) consents orally or in writing to the making of the communication to a prospective employer, before the making of the communication; and

(iii) in the case of consent under clause (i) or (ii) given orally, is provided written confirmation of that consent by the person making the communication, not later than 3 business days after the receipt of the consent by that person;

(B) the person who makes the communication does not, for the purpose of making the communication, make any inquiry that if made by a prospective employer of the consumer who is the subject of the communication would violate any applicable Federal or State equal employment opportunity law or regulation; and

(C) the person who makes the communication –

(i) discloses in writing to the consumer who is the subject of the communication, not later than 5 business days after receiving any request from the consumer for such disclosure, the nature and substance of all information in the consumer's file at the time of the request, except that the sources of any information that is acquired solely for use in making the communication and is actually used for no other purpose, need not be disclosed other than under appropriate discovery procedures in any court of competent jurisdiction in which an action is brought; and

(ii) notifies the consumer who is the subject of the communication, in writing, of the consumer's right to request the information described in clause (i).

(p) Consumer reporting agency that compiles and maintains files on consumers on a nationwide basis. The term "consumer reporting agency that compiles and maintains files on consumers on a nationwide basis" means a consumer reporting agency that regularly engages in the practice of assembling or evaluating, and maintaining, for the purpose of furnishing consumer reports to third parties bearing on a consumer's credit worthiness, credit standing, or credit capacity, each of the following regarding consumers residing nationwide:

(1) Public record information.

(2) Credit account information from persons who furnish that information regularly and in the ordinary course of business.

§ 1681b. Permissible purposes of consumer reports

(a) In general. Subject to subsection (c) of this section, any consumer reporting agency may furnish a consumer report under the following circumstances and no other:

(1) In response to the order of a court having jurisdiction to issue such an order, or a subpoena issued in connection with proceedings before a Federal grand jury.

(2) In accordance with the written instructions of the consumer to whom it relates.

(3) To a person which it has reason to believe –

(A) intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer; or

(B) intends to use the information for employment purposes; or

(C) intends to use the information in connection with the underwriting of insurance involving the consumer; or

(D) intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or

(E) intends to use the information, as a potential investor or servicer, or current insurer, in connection with a valuation of, or an assessment of the credit or prepayment risks associated with, an existing credit obligation; or

(F) otherwise has a legitimate business need for the information –

(i) in connection with a business transaction that is initiated by the consumer; or

(ii) to review an account to determine whether the consumer continues to meet the terms of the account.

(4) In response to a request by the head of a State or local child support enforcement agency (or a State or local government official authorized by the head of such an agency), if the person making the request certifies to the consumer reporting agency that –

(A) the consumer report is needed for the purpose of establishing an individual's capacity to make child support payments or determining the appropriate level of such payments;

(B) the paternity of the consumer for the child to which the obligation relates has been established or acknowledged by the consumer in accordance with State laws under which the obligation arises (if required by those laws);

(C) the person has provided at least 10 days' prior notice to the consumer whose report is requested, by certified or registered mail to the last known address of the consumer, that the report will be requested; and

(D) the consumer report will be kept confidential, will be used solely for a purpose described in subparagraph (A), and will not be used in connection with any other civil, administrative, or criminal proceeding, or for any other purpose.

(5) To an agency administering a State plan under section 654 of Title 42 for use to set an initial or modified child support award.

(b) Conditions for furnishing and using consumer reports for employment purposes.

(1) Certification from user. A consumer reporting agency may furnish a consumer report for employment purposes only if –

(A) the person who obtains such report from the agency certifies to the agency that –

(i) the person has complied with paragraph (2) with respect to the consumer report, and the person will comply with paragraph (3) with respect to the consumer report if paragraph (3) becomes applicable; and

(ii) information from the consumer report will not be used in violation of any applicable Federal or State equal employment opportunity law or regulation; and

(B) the consumer reporting agency provides with the report, or has previously provided, a summary of the

consumer's rights under this subchapter, as prescribed by the Federal Trade Commission under section 1681g(c)(3) of this title.

(2) Disclosure to consumer

(A) In general

Except as provided in subparagraph (B), a person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer, unless –

(i) a clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes; and

(ii) the consumer has authorized in writing (which authorization may be made on the document referred to in clause (i)) the procurement of the report by that person.

(B) Application by mail, telephone, computer, or other similar means

If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, at any time before a consumer report is procured or caused to be procured in connection with that application –

(i) the person who procures the consumer report on the consumer for employment purposes shall provide to the consumer, by oral, written, or electronic means, notice that a consumer report may be obtained for employment purposes, and a summary of the consumer's rights under section 1681m(a)(3) of this title; and

(ii) the consumer shall have consented, orally, in writing, or electronically to the procurement of the report by that person.

(C) Scope

Subparagraph (B) shall apply to a person procuring a consumer report on a consumer in connection with the consumer's application for employment only if –

(i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of section 31502 of Title 49, or a position subject to safety regulation by a State transportation agency; and

(ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by mail, telephone, computer, or other similar means.

(3) Conditions on use for adverse actions

(A) In general

Except as provided in subparagraph (B), in using a consumer report for employment purposes, before taking any adverse action based in whole or in part on the report, the person intending to take such adverse action shall provide to the consumer to whom the report relates –

(i) a copy of the report; and

(ii) a description in writing of the rights of the consumer under this subchapter, as prescribed by the Federal Trade Commission under section 1681g(c)(3) of this title.

(B) Application by mail, telephone, computer, or other similar means

(i) If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, and if a person who has procured a consumer

report on the consumer for employment purposes takes adverse action on the employment application based in whole or in part on the report, then the person must provide to the consumer to whom the report relates, in lieu of the notices required under subparagraph (A) of this section and under section 1681m(a) of this title, within 3 business days of taking such action, an oral, written or electronic notification –

(I) that adverse action has been taken based in whole or in part on a consumer report received from a consumer reporting agency;

(II) of the name, address and telephone number of the consumer reporting agency that furnished the consumer report (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis);

(III) that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide to the consumer the specific reasons why the adverse action was taken; and

(IV) that the consumer may, upon providing proper identification, request a free copy of a report and may dispute with the consumer reporting agency the accuracy or completeness of any information in a report.

(ii) If, under clause (B)(i)(IV), the consumer requests a copy of a consumer report from the person who procured the report, then, within 3 business days of receiving the consumer's request, together with proper identification, the person must send or provide to the consumer a copy of a report and a copy of the consumer's rights as prescribed by the Federal Trade Commission under section 1681g(c)(3) of this title.

(C) Scope

Subparagraph (B) shall apply to a person procuring a consumer report on a consumer in connection with the consumer's application for employment only if –

(i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of section 31502 of Title 49, or a position subject to safety regulation by a State transportation agency; and

(ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by mail, telephone, computer, or other similar means.

(4) Exception for national security investigations.

(A) In general. In the case of an agency or department of the United States Government which seeks to obtain and use a consumer report for employment purposes, paragraph (3) shall not apply to any adverse action by such agency or department which is based in part on such consumer report, if the head of such agency or department makes a written finding that –

(i) the consumer report is relevant to a national security investigation of such agency or department;

(ii) the investigation is within the jurisdiction of such agency or department;

(iii) there is reason to believe that compliance with paragraph (3) will –

(I) endanger the life or physical safety of any person;

(II) result in flight from prosecution;

(III) result in the destruction of, or tampering with, evidence relevant to the investigation;

(IV) result in the intimidation of a potential witness relevant to the investigation;

(V) result in the compromise of classified information; or

(VI) otherwise seriously jeopardize or unduly delay the investigation or another official proceeding.

(B) Notification of consumer upon conclusion of investigation. Upon the conclusion of a national security investigation described in subparagraph (A), or upon the determination that the exception under subparagraph (A) is no longer required for the reasons set forth in such subparagraph, the official exercising the authority in such subparagraph shall provide to the consumer who is the subject of the consumer report with regard to which such finding was made –

(i) a copy of such consumer report with any classified information redacted as necessary;

(ii) notice of any adverse action which is based, in part, on the consumer report; and

(iii) the identification with reasonable specificity of the nature of the investigation for which the consumer report was sought.

(C) Delegation by head of agency or department. For purposes of subparagraphs (A) and (B), the head of any agency or department of the United States Government may delegate his or her authorities under this paragraph to an official of such agency or department who has personnel security responsibilities and is a member of the Senior Executive Service or equivalent civilian or military rank.

(D) Report to the congress. Not later than January 31 of each year, the head of each agency and department of the United States Government that exercised authority under this paragraph during the preceding year shall submit a report to the Congress on the number of times the department or agency exercised such authority during the year.

(E) Definitions. For purposes of this paragraph, the following definitions shall apply:

(i) Classified information. The term "classified information" means information that is protected from unauthorized disclosure under Executive Order No. 12958 or successor orders.

(ii) National security investigation. The term "national security investigation" means any official inquiry by an agency or department of the United States Government to determine the eligibility of a consumer to receive access or continued access to classified information or to determine whether classified information has been lost or compromised.

(c) Furnishing reports in connection with credit or insurance transactions that are not initiated by the consumer.

(1) In general. A consumer reporting agency may furnish a consumer report relating to any consumer pursuant to subparagraph (A) or (C) of subsection (a)(3) of this section in connection with any credit or insurance transaction that is not initiated by the consumer only if –

(A) the consumer authorizes the agency to provide such report to such person; or

(B) (i) the transaction consists of a firm offer of credit or insurance;

(ii) the consumer reporting agency has complied with subsection (e) of this section; and

(iii) there is not in effect an election by the consumer, made in accordance with subsection (e) of this section, to have the consumer's name and address excluded from lists of names provided by the agency pursuant to this paragraph.

(2) Limits on information received under paragraph (1)(B). A person may receive pursuant to paragraph (1)(B) only –

(A) the name and address of a consumer;

(B) an identifier that is not unique to the consumer and that is used by the person solely for the purpose of verifying the identity of the consumer; and

(C) other information pertaining to a consumer that does not identify the relationship or experience of the consumer with respect to a particular creditor or other entity.

(3) Information regarding inquiries. Except as provided in section 1681g(a)(5) of this title, a consumer reporting agency shall not furnish to any person a record of inquiries in connection with a credit or insurance transaction that is not initiated by a consumer.

(d) reserved

(e) Election of consumer to be excluded from lists.

(1) In general. A consumer may elect to have the consumer's name and address excluded from any list provided by a consumer reporting agency under subsection (c)(1)(B) of this section in connection with a credit or insurance transaction that is not initiated by the consumer, by notifying the agency in accordance with paragraph (2) that the consumer does not consent to any use of a consumer report relating to the consumer in connection with any credit or insurance transaction that is not initiated by the consumer.

(2) Manner of notification. A consumer shall notify a consumer reporting agency under paragraph (1) –

(A) through the notification system maintained by the agency under paragraph (5); or

(B) by submitting to the agency a signed notice of election form issued by the agency for purposes of this subparagraph.

(3) Response of agency after notification through system. Upon receipt of notification of the election of a consumer under paragraph (1) through the notification system maintained by the agency under paragraph (5), a consumer reporting agency shall – –

(A) inform the consumer that the election is effective only for the 2-year period following the election if the consumer does not submit to the agency a signed notice of election form issued by the agency for purposes of paragraph (2)(B); and

(B) provide to the consumer a notice of election form, if requested by the consumer, not later than 5 business days after receipt of the notification of the election through the system established under paragraph (5), in the case of a request made at the time the consumer provides notification through the system.

(4) Effectiveness of election. An election of a consumer under paragraph (1) –

(A) shall be effective with respect to a consumer reporting agency beginning 5 business days after the date on which the consumer notifies the agency in accordance with paragraph (2);

(B) shall be effective with respect to a consumer reporting agency –

(i) subject to subparagraph (C), during the 2-year period beginning 5 business days after the date on which the consumer notifies the agency of the election, in the case of an election for which a consumer notifies the agency only in accordance with paragraph (2)(A); or

(ii) until the consumer notifies the agency under subparagraph (C), in the case of an election for which a consumer notifies the agency in accordance with paragraph (2)(B);

(C) shall not be effective after the date on which the consumer notifies the agency, through the notification system established by the agency under paragraph (5), that the election is no longer effective; and

(D) shall be effective with respect to each affiliate of the agency.

(5) Notification system.

(A) In general. Each consumer reporting agency that, under subsection (c)(1)(B) of this section, furnishes a consumer report in connection with a credit or insurance transaction that is not initiated by a consumer, shall –

(i) establish and maintain a notification system, including a toll-free telephone number, which permits any consumer whose consumer report is maintained by the agency to notify the agency, with appropriate identification, of the consumer's election to have the consumer's name and address excluded from any such list of names and addresses provided by the agency for such a transaction; and

(ii) publish by not later than 365 days after September 30, 1996, and not less than annually thereafter, in a publication of general circulation in the area served by the agency –

(I) a notification that information in consumer files maintained by the agency may be used in connection with such transactions; and

(II) the address and toll-free telephone number for consumers to use to notify the agency of the consumer's election under clause (i).

(B) Establishment and maintenance as compliance. Establishment and maintenance of a notification system (including a toll-free telephone number) and publication by a consumer reporting agency on the agency's own behalf and on behalf of any of its affiliates in accordance with this paragraph is deemed to be compliance with this paragraph by each of those affiliates.

(6) Notification system by agencies that operate nationwide. Each consumer reporting agency that compiles and maintains files on consumers on a nationwide basis shall establish and maintain a notification system for purposes of paragraph (5) jointly with other such consumer reporting agencies.

(f) Certain use or obtaining of information prohibited. A person shall not use or obtain a consumer report for any purpose unless –

(1) the consumer report is obtained for a purpose for which the consumer report is authorized to be furnished under this section; and

(2) the purpose is certified in accordance with section 1681e of this title by a prospective user of the report through a general or specific certification.

(g) Furnishing reports containing medical information. A consumer reporting agency shall not furnish for employment purposes, or in connection with a credit or insurance transaction, a consumer report that contains medical

information about a consumer, unless the consumer consents to the furnishing of the report.

§ 1681c. Reporting of requirements relating to information contained in consumer reports prohibited

(a) Information excluded from consumer reports. Prohibited items

Except as authorized under subsection (b) of this section, no consumer reporting agency may make any consumer report containing any of the following items of information:

(1) cases under Title 11 or under the Bankruptcy Act that, from the date of entry of the order for relief or the date of adjudication, as the case may be, antedate the report by more than 10 years.

(2) Civil suits, civil judgments, and records of arrest that, from date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.

(3) Paid tax liens which, from date of payment, antedate the report by more than seven years.

(4) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

(5) Any other adverse item of information, other than records of convictions of crimes which antedates the report by more than seven years.

(6) Redesignated (5)

(b) Exempted cases

The provisions of subsection (a) of this section are not applicable in the case of any consumer credit report to be used in connection with –

(1) a credit transaction involving, or which may reasonably be expected to involve, a principal amount of $150,000 or more;

(2) the underwriting of life insurance involving, or which may reasonably be expected to involve, a face amount of $150,000 or more; or

(3) the employment of any individual at an annual salary which equals, or which may reasonably be expected to equal 75,000, or more.

(c) Running of reporting period

(1) In general. The 7-year period referred to in paragraphs (4) and (6) of subsection (a) of this section shall begin, with respect to any delinquent account that is placed for collection (internally or by referral to a third party, whichever is earlier), charged to profit and loss, or subjected to any similar action, upon the expiration of the 180-day period beginning on the date of the commencement of the delinquency which immediately preceded the collection activity, charge to profit and loss, or similar action.

(2) Effective date. Paragraph (1) shall apply only to items of information added to the file of a consumer on or after the date that is 455 days after September 30, 1996.

(d) Information required to be disclosed

Any consumer reporting agency that furnishes a consumer report that contains information regarding any case involving the consumer that arises under Title 11, shall include in the report an identification of the chapter of such Title 11 under which such case arises if provided by the source of the information. If any case arising or filed under Title 11, is withdrawn by the consumer before a final judgment, the consumer reporting agency shall include in the report that such case or filing was withdrawn upon receipt of documentation certifying such withdrawal.

(e) Indication of closure of account by consumer

If a consumer reporting agency is notified pursuant to section 1681s-2(a)(4) of this title that a credit account of a consumer was voluntarily closed by the consumer, the agency shall indicate that fact in any consumer report that includes information related to the account.

(f) Indication of dispute by consumer

If a consumer reporting agency is notified pursuant to section 1681s-2(a)(3) of this title that information regarding a consumer who was furnished to the agency is disputed by the consumer, the agency shall indicate that fact in each consumer report that includes the disputed information.

§ 1681d. Disclosure of investigative consumer reports

(a) Disclosure of fact of preparation

A person may not procure or cause to be prepared an investigative consumer report on any consumer unless--

(1) it is clearly and accurately disclosed to the consumer that an investigative consumer report including information as to his character, general reputation, personal characteristics, and mode of living, whichever are applicable, may be made, and such disclosure (A) is made in a writing mailed, or otherwise delivered, to the consumer, not later than three days after the date on which the report was first requested, and (B) includes a statement informing the consumer of his right to request the additional disclosures provided for under subsection (b) of this section and the written summary of the rights of the consumer prepared pursuant to section 1681g(c) of this title; and

(2) the person certifies or has certified to the consumer reporting agency that –

(A) the person has made the disclosures to the consumer required by paragraph (1); and

(B) the person will comply with subsection (b) of this section.

(b) Disclosure on request of nature and scope of investigation

Any person who procures or causes to be prepared an investigative consumer report on any consumer shall, upon written request made by the consumer within a reasonable period of time after the receipt by him of the disclosure required by subsection (a)(1) of this section, make a complete and accurate disclosure of the nature and scope of the investigation requested. This disclosure shall be made in a writing mailed, or otherwise delivered, to the consumer not later than five days after the date on which the request for such disclosure was received from the consumer or such report was first requested, whichever is the later.

(c) Limitation on liability upon showing of reasonable procedures for compliance with provisions

No person may be held liable for any violation of subsection (a) or (b) of this section if he shows by a preponderance of the evidence that at the time of the violation he maintained reasonable procedures to assure compliance with subsection (a) or (b) of this section.

(d) Prohibitions

(1) Certification. A consumer reporting agency shall not prepare or furnish an investigative consumer report unless the agency has received a certification under subsection (a)(2) of this section from the person who requested the report.

(2) Inquiries. A consumer reporting agency shall not make an inquiry for the purpose of preparing an investigative consumer report on a consumer for employment purposes if the making of the inquiry by an employer or prospective employer of the consumer would violate any

applicable Federal or State equal employment opportunity law or regulation.

(3) Certain public record information. Except as otherwise provided in section 1681k of this title, a consumer reporting agency shall not furnish an investigative consumer report that includes information that is a matter of public record and that relates to an arrest, indictment, conviction, civil judicial action, tax lien, or outstanding judgment, unless the agency has verified the accuracy of the information during the 30-day period ending on the date on which the report is furnished.

(4) Certain adverse information. A consumer reporting agency shall not prepare or furnish an investigative consumer report on a consumer that contains information that is adverse to the interest of the consumer and that is obtained through a personal interview with a neighbor, friend, or associate of the consumer or with another person with whom the consumer is acquainted or who has knowledge of such item of information, unless –

(A) the agency has followed reasonable procedures to obtain confirmation of the information, from an additional source that has independent and direct knowledge of the information; or

(B) the person interviewed is the best possible source of the information.

§ 1681e. Compliance procedures

(a) Identity and purposes of credit users

Every consumer reporting agency shall maintain reasonable procedures designed to avoid violations of section 1681c of this title and to limit the furnishing of consumer reports to the purposes listed under section 1681b of this title. These procedures shall require that prospective users of the information identify themselves, certify the purposes for which

the information is sought, and certify that the information will be used for no other purpose. Every consumer reporting agency shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by such prospective user prior to furnishing such user a consumer report. No consumer reporting agency may furnish a consumer report to any person if it has reasonable grounds for believing that the consumer report will not be used for a purpose listed in section 1681b of this title.

(b) Accuracy of report

Whenever a consumer reporting agency prepares a consumer report it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.

(c) Disclosure of consumer reports by users allowed.

A consumer reporting agency may not prohibit a user of a consumer report furnished by the agency on a consumer from disclosing the contents of the report to the consumer, if adverse action against the consumer has been taken by the user based in whole or in part on the report.

(d) Notice to users and furnishers of information.

(1) Notice requirement. A consumer reporting agency shall provide to any person –

(A) who regularly and in the ordinary course of business furnishes information to the agency with respect to any consumer; or

(B) to whom a consumer report is provided by the agency; a notice of such person's responsibilities under this subchapter.

(2) Content of notice. The Federal Trade Commission shall prescribe the content of notices under paragraph (1), and a consumer reporting agency shall be in

compliance with this subsection if it provides a notice under paragraph (1) that is substantially similar to the Federal Trade Commission prescription under this paragraph.

(e) Procurement of consumer report for resale

(1) Disclosure. A person may not procure a consumer report for purposes of reselling the report (or any information in the report) unless the person discloses to the consumer reporting agency that originally furnishes the report –

(A) the identity of the end-user of the report (or information); and

(B) each permissible purpose under section 1681b of this title for which the report is furnished to the end-user of the report (or information).

(2) Responsibilities of procurers for resale. A person who procures a consumer report for purposes of reselling the report (or any information in the report) shall –

(A) establish and comply with reasonable procedures designed to ensure that the report (or information) is resold by the person only for a purpose for which the report may be furnished under section 1681b of this title, including by requiring that each person to which the report (or information) is resold and that resells or provides the report (or information) to any other person –

(i) identifies each end user of the resold report (or information);

(ii) certifies each purpose for which the report (or information) will be used; and

(iii) certifies that the report (or information) will be used for no other purpose; and

(B) before reselling the report, make reasonable efforts to verify the identifications and certifications made under subparagraph (A).

(3) Resale of consumer report to a federal agency or department. Notwithstanding paragraph (1) or (2), a person who procures a consumer report for purposes of reselling the report (or any information in the report) shall not disclose the identity of the end-user of the report under paragraph (1) or (2) if –

(A) the end user is an agency or department of the United States Government which procures the report from the person for purposes of determining the eligibility of the consumer concerned to receive access or continued access to classified information (as defined in section 1681b(b)(4)(E)(i) of this title); and

(B) the agency or department certifies in writing to the person reselling the report that nondisclosure is necessary to protect classified information or the safety of persons employed by or contracting with, or undergoing investigation for work or contracting with the agency or department.

§ 1681f. Disclosures to governmental agencies

Notwithstanding the provisions of section 1681b of this title, a consumer reporting agency may furnish identifying information respecting any consumer, limited to his name, address, former addresses, places of employment, or former places of employment, to a governmental agency.

§ 1681h. Conditions and form of disclosure to consumers

(a) In general

(1) Proper identification. A consumer reporting agency shall require, as a condition of making the disclosures

required under section 1681g of this title, that the consumer furnish proper identification.

(2) Disclosure in writing.--Except as provided in subsection (b) of this section, the disclosures required to be made under section 1681(g) of this title shall be provided under that section in writing.

(b) Other forms of disclosure

(1) In general. If authorized by a consumer, a consumer reporting agency may make the disclosures required under 1681g of this title –

(A) other than in writing; and

(B) in such form as may be –

(i) specified by the consumer in accordance with paragraph (2); and

(ii) available from the agency.

(2) Form. A consumer may specify pursuant to paragraph (1) that disclosures under section 1681g of this title shall be made –

(A) in person, upon the appearance of the consumer at the place of business of the consumer reporting agency where disclosures are regularly provided, during normal business hours, and on reasonable notice;

(B) by telephone, if the consumer has made a written request for disclosure by telephone;

(C) by electronic means, if available from the agency; or

(D) by any other reasonable means that is available from the agency.

(c) Trained personnel

Any consumer reporting agency shall provide trained personnel to explain to the consumer any information furnished to him pursuant to section 1681g of this title.

(d) Persons accompanying consumer

The consumer shall be permitted to be accompanied by one other person of his choosing, who shall furnish reasonable identification. A consumer reporting agency may require the consumer to furnish a written statement granting permission to the consumer reporting agency to discuss the consumer's file in such person's presence.

(e) Limitation of liability

Except as provided in sections 1681n and 1681o of this title, no consumer may bring any action or proceeding in the nature of defamation, invasion of privacy, or negligence with respect to the reporting of information against any consumer reporting agency, any user of information, or any person who furnishes information to a consumer reporting agency, based on information disclosed pursuant to section 1681g, 1681h, or 1681m of this title, or based on information disclosed by a user of a consumer report to or for a consumer against whom the user has taken adverse action, based in whole or in part on the report except as to false information furnished with malice or willful intent to injure such consumer.

§ 1681g. Disclosures to consumers

(a) Information on file; sources; report recipients

Every consumer reporting agency shall, upon request, and subject to section 1681h(a)(1) of this title, clearly and accurately disclose to the consumer:

(1) All information in the consumer's file at the time of the request, except that nothing in this paragraph shall be construed to require a consumer reporting agency to disclose

to a consumer any information concerning credit scores or any other risk scores or predictors relating to the consumer.

(2) The sources of the information; except that the sources of information acquired solely for use in preparing an investigative consumer report and actually used for no other purpose need not be disclosed: Provided, That in the event an action is brought under this subchapter, such sources shall be available to the plaintiff under appropriate discovery procedures in the court in which the action is brought.

(3) (A) Identification of each person (including each end-user identified under section 1681e(e)(1) of this title) that procured a consumer report –

(i) for employment purposes, during the 2-year period preceding the date on which the request is made; or

(ii) for any other purpose, during the 1-year period preceding the date on which the request is made.

(B) An identification of a person under subparagraph (A) shall include –

(i) the name of the person or, if applicable, the trade name (written in full) under which such person conducts business; and

(ii) upon request of the consumer, the address and telephone number of the person.

(C) Subparagraph (A) does not apply if--

(i) the end user is an agency or department of the United States Government that procures the report from the person for purposes of determining the eligibility of the consumer to whom the report relates to receive access or continued access to classified information (as defined in section 1681b(b)(4)(E)(i) of this title); and

(ii) the head of the agency or department makes a written finding as prescribed under section 1681b(b)(4)(A) of this title.

(4) The dates, original payees, and amounts of any checks upon which is based any adverse characterization of the consumer, included in the file at the time of the disclosure.

(5) A record of all inquiries received by the agency during the 1-year period preceding the request that identified the consumer in connection with a credit or insurance transaction that was not initiated by the consumer.

(b) Exempt information

The requirements of subsection (a) of this section respecting the disclosure of sources of information and the recipients of consumer reports do not apply to information received or consumer reports furnished prior to the effective date of this subchapter except to the extent that the matter involved is contained in the files of the consumer reporting agency on that date.

(c) Summary of rights required to be included with disclosure

(1) Summary of rights. A consumer reporting agency shall provide to a consumer, with each written disclosure by the agency to the consumer under this section--

(A) a written summary of all of the rights that the consumer has under this subchapter; and

(B) in the case of a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, a toll-free telephone number established by the agency, at which personnel are accessible to consumers during normal business hours.

(2) Specific items required to be included. The summary of rights required under paragraph (1) shall include –

(A) a brief description of this subchapter and all rights of consumers under this subchapter;

(B) an explanation of how the consumer may exercise the rights of the consumer under this subchapter;

(C) list of all Federal agencies responsible for enforcing any provision of this subchapter and the address and any appropriate phone number of each such agency, in a form that will assist the consumer in selecting the appropriate agency;

(D) a statement that the consumer may have additional rights under State law and that the consumer may wish to contact a State or local consumer protection agency or a State attorney general to learn of those rights; and

(E) a statement that a consumer reporting agency is not required to remove accurate derogatory information from a consumer's file, unless the information is outdated under section 1681c of this title or cannot be verified.

(3) Form of summary of rights. For purposes of this subsection and any disclosure by a consumer reporting agency required under this subchapter with respect to consumers' rights, the Federal Trade Commission (after consultation with each Federal agency referred to in section 1681s(b) of this title) shall prescribe the form and content of any such disclosure of the rights of consumers required under this subchapter. A consumer reporting agency shall be in compliance with this subsection if it provides disclosures under paragraph (1) that are substantially similar to the Federal Trade Commission prescription under this paragraph.

(4) Effectiveness. No disclosures shall be required under this subsection until the date on which the Federal Trade

Commission prescribes the form and content of such disclosures under paragraph (3).

§ 1681i. Procedure in case of disputed accuracy

(a) Reinvestigations of disputed information

(1) Reinvestigation required.

(A) In general. If the completeness or accuracy of any item of information contained in a consumer's file at a consumer reporting agency is disputed by the consumer and the consumer notifies the agency directly of such dispute, the agency shall reinvestigate free of charge and record the current status of the disputed information, or delete the item from the file in accordance with paragraph (5), before the end of the 30-day period beginning on the date on which the agency receives the notice of the dispute from the consumer.

(B) Extension of period to reinvestigate. Except as provided in subparagraph (C), the 30-day period described in subparagraph (A) may be extended for not more than 15 additional days if the consumer reporting agency receives information from the consumer during that 30-day period that is relevant to the reinvestigation.

(C) Limitations on extension of period to reinvestigate.--Subparagraph (B) shall not apply to any reinvestigation in which, during the 30-day period described in subparagraph (A), the information that is the subject of the reinvestigation is found to be inaccurate or incomplete or the consumer reporting agency determines that the information cannot be verified.

(2) Prompt notice of dispute to furnisher of information.

(A) In general. Before the expiration of the 5-business-day period beginning on the date on which a consumer reporting agency receives notice of a dispute from

any consumer in accordance with paragraph (1), the agency shall provide notification of the dispute to any person who provided any item of information in dispute, at the address and in the manner established with the person. The notice shall include all relevant information regarding the dispute that the agency has received from the consumer.

(B) Provision of other information from consumer. The consumer reporting agency shall promptly provide to the person who provided the information in dispute all relevant information regarding the dispute that is received by the agency from the consumer after the period referred to in subparagraph (A) and before the end of the period referred to in paragraph (1)(A).

(3) Determination that dispute is frivolous or irrelevant.

(A) In general. Notwithstanding paragraph (1), a consumer reporting agency may terminate a reinvestigation of information disputed by a consumer under that paragraph if the agency reasonably determines that the dispute by the consumer is frivolous or irrelevant, including by reason of a failure by a consumer to provide sufficient information to investigate the disputed information.

(B) Notice of determination. Upon making any determination in accordance with subparagraph (A) that a dispute is frivolous or irrelevant, a consumer reporting agency shall notify the consumer of such determination not later than 5 business days after making such determination, by mail or, if authorized by the consumer for that purpose, by any other means available to the agency.

(C) Contents of notice. A notice under subparagraph (B) shall include –

(i) the reasons for the determination under subparagraph (A); and

(ii) identification of any information required to investigate the disputed information, which may consist of a standardized form describing the general nature of such information.

(4) Consideration of consumer information. In conducting any reinvestigation under paragraph (1) with respect to disputed information in the file of any consumer, the consumer reporting agency shall review and consider all relevant information submitted by the consumer in the period described in paragraph (1)(A) with respect to such disputed information.

(5) Treatment of inaccurate or unverifiable information.

(A) In general. If, after any reinvestigation under paragraph (1) of any information disputed by a consumer, an item of the information is found to be inaccurate or incomplete or cannot be verified, the consumer reporting agency shall promptly delete that item of information from the consumer's file or modify that item of information, as appropriate, based on the results of the reinvestigation.

(B) Requirements relating to reinsertion of previously deleted material.

(i) Certification of accuracy of information. If any information is deleted from a consumer's file pursuant to subparagraph (A), the information may not be reinserted in the file by the consumer reporting agency unless the person who furnishes the information certifies that the information is complete and accurate.

(ii) Notice to consumer. If any information that has been deleted from a consumer's file pursuant to subparagraph (A) is reinserted in the file, the consumer reporting agency shall notify the consumer of the reinsertion in writing not later than 5 business days after the reinsertion or,

if authorized by the consumer for that purpose, by any other means available to the agency.

(iii) Additional information. As part of, or in addition to, the notice under clause (ii), a consumer reporting agency shall provide to a consumer in writing not later than 5 business days after the date of the reinsertion –

(I) a statement that the disputed information has been reinserted;

(II) the business name and address of any furnisher of information contacted and the telephone number of such furnisher, if reasonably available, or of any furnisher of information that contacted the consumer reporting agency, in connection with the reinsertion of such information; and

(III) a notice that the consumer has the right to add a statement to the consumer's file disputing the accuracy or completeness of the disputed information.

(C) Procedures to prevent reappearance. A consumer reporting agency shall maintain reasonable procedures designed to prevent the reappearance in a consumer's file, and in consumer reports on the consumer, of information that is deleted pursuant to this paragraph (other than information that is reinserted in accordance with subparagraph (B)(i)).

(D) Automated reinvestigation system. Any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis shall implement an automated system through which furnishers of information to that consumer reporting agency may report the results of a reinvestigation that finds incomplete or inaccurate information in a consumer's file to other such consumer reporting agencies.

(6) Notice of results of reinvestigation.

(A) In general. A consumer reporting agency shall provide written notice to a consumer of the results of a reinvestigation under this subsection not later than 5 business days after the completion of the reinvestigation, by mail or, if authorized by the consumer for that purpose, by other means available to the agency.

(B) Contents. As part of, or in addition to, the notice under subparagraph (A), a consumer reporting agency shall provide to a consumer in writing before the expiration of the 5-day period referred to in subparagraph (A) –

(i) a statement that the reinvestigation is completed;

(ii) a consumer report that is based upon the consumer's file as that file is revised as a result of the reinvestigation;

(iii) a notice that, if requested by the consumer, a description of the procedure used to determine the accuracy and completeness of the information shall be provided to the consumer by the agency, including the business name and address of any furnisher of information contacted in connection with such information and the telephone number of such furnisher, if reasonably available;

(iv) a notice that the consumer has the right to add a statement to the consumer's file disputing the accuracy or completeness of the information; and

(v) a notice that the consumer has the right to request under subsection (d) of this section that the consumer reporting agency furnish notifications under that subsection.

(7) Description of reinvestigation procedure.--A consumer reporting agency shall provide to a consumer a description referred to in paragraph (6)(B)(iii) by not later than

15 days after receiving a request from the consumer for that description.

(8) Expedited dispute resolution.--If a dispute regarding an item of information in a consumer's file at a consumer reporting agency is resolved in accordance with paragraph (5)(A) by the deletion of the disputed information by not later than 3 business days after the date on which the agency receives notice of the dispute from the consumer in accordance with paragraph (1)(A), then the agency shall not be required to comply with paragraphs (2), (6), and (7) with respect to that dispute if the agency –

(A) provides prompt notice of the deletion to the consumer by telephone;

(B) includes in that notice, or in a written notice that accompanies a confirmation and consumer report provided in accordance with subparagraph (C), a statement of the consumer's right to request under subsection (d) of this section that the agency furnish notifications under that subsection; and

(C) provides written confirmation of the deletion and a copy of a consumer report on the consumer that is based on the consumer's file after the deletion, not later than 5 business days after making the deletion.

(b) Statement of dispute If the reinvestigation does not resolve the dispute, the consumer may file a brief statement setting forth the nature of the dispute. The consumer reporting agency may limit such statements to not more than one hundred words if it provides the consumer with assistance in writing a clear summary of the dispute.

(c) Notification of consumer dispute in subsequent consumer reports

Whenever a statement of a dispute is filed, unless there is reasonable grounds to believe that it is frivolous or

irrelevant, the consumer reporting agency shall, in any subsequent consumer report containing the information in question, clearly note that it is disputed by the consumer and provide either the consumer's statement or a clear and accurate codification or summary thereof.

(d) Notification of deletion of disputed information

Following any deletion of information which is found to be inaccurate or whose accuracy can no longer be verified or any notation as to disputed information, the consumer reporting agency shall, at the request of the consumer, furnish notification that the item has been deleted or the statement, codification or summary pursuant to subsection (b) or (c) of this section to any person specifically designated by the consumer who has within two years prior thereto received a consumer report for employment purposes, or within six months prior thereto received a consumer report for any other purpose, which contained the deleted or disputed information.

§ 1681k. Public record information for employment purposes

(a) In general

A consumer reporting agency which furnishes a consumer report for employment purposes and which for that purpose compiles and reports items of information on consumers which are matters of public record and are likely to have an adverse effect upon a consumer's ability to obtain employment shall –

(1) at the time such public record information is reported to the user of such consumer report, notify the consumer of the fact that public record information is being reported by the consumer reporting agency, together with the name and address of the person to whom such information is being reported; or

(2) maintain strict procedures designed to insure that whenever public record information which is likely to have an adverse effect on a consumer's ability to obtain employment is reported it is complete and up to date. For purposes of this paragraph, items of public record relating to arrests, indictments, convictions, suits, tax liens, and outstanding judgments shall be considered up to date if the current public record status of the item at the time of the report is reported.

(b) exemption for National security investigations

Subsection (a) does not apply in the case of an agency or department of the United States Government that seeks to obtain and use a consumer report for employment purposes, if the head of the agency or department makes a written finding as prescribed under section 1681b(b)(4)(A) of this title.

§ 1681m. Requirements on users of consumer reports

(a) Duties of users taking adverse actions on the basis of information contained in consumer reports

If any person takes any adverse action with respect to any consumer that is based in whole or in part on any information contained in a consumer report, the person shall –

(1) provide oral, written, or electronic notice of the adverse action to the consumer;

(2) provide to the consumer orally, in writing, or electronically –

(A) the name, address, and telephone number of the consumer reporting agency (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis) that furnished the report to the person; and

(B) a statement that the consumer reporting agency did not make the decision to take the adverse action

and is unable to provide the consumer the specific reasons why the adverse action was taken; and

(3) provide to the consumer an oral, written, or electronic notice of the consumer's right –

(A) to obtain, under section 1681j of this title, a free copy of a consumer report on the consumer from the consumer reporting agency referred to in paragraph (2), which notice shall include an indication of the 60-day period under that section for obtaining such a copy; and

(B) to dispute, under section 1681i of this title, with a consumer reporting agency the accuracy or completeness of any information in a consumer report furnished by the agency.

(b) Adverse action based on information obtained from third parties other than consumer reporting agencies

(1) In general. Whenever credit for personal, family, or household purposes involving a consumer is denied or the charge for such credit is increased either wholly or partly because of information obtained from a person other than a consumer reporting agency bearing upon the consumer's credit worthiness [FN1], credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, the user of such information shall, within a reasonable period of time, upon the consumer's written request for the reasons for such adverse action received within sixty days after learning of such adverse action, disclose the nature of the information to the consumer. The user of such information shall clearly and accurately disclose to the consumer his right to make such written request at the time such adverse action is communicated to the consumer.

(2) Duties of person taking certain actions based on information provided by affiliate.

(A) Duties, generally. If a person takes an action described in subparagraph (B) with respect to a consumer, based in whole or in part on information described in subparagraph (C), the person shall –

(i) notify the consumer of the action, including a statement that the consumer may obtain the information in accordance with clause (ii); and

(ii) upon a written request from the consumer received within 60 days after transmittal of the notice required by clause (i), disclose to the consumer the nature of the information upon which the action is based by not later than 30 days after receipt of the request.

(B) Action described. An action referred to in subparagraph (A) is an adverse action described in section 1681a(k)(1)(A) of this title, taken in connection with a transaction initiated by the consumer, or any adverse action described in clause (i) or (ii) of section 1681a(k)(1)(B) of this title.

(C) Information described. Information referred to in subparagraph (A) –

(i) except as provided in clause (ii), is information that –

(I) is furnished to the person taking the action by a person related by common ownership or affiliated by common corporate control to the person taking the action; and

(II) bears on the credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living of the consumer; and

(ii) does not include –

(I) information solely as to transactions or experiences between the consumer and the person furnishing the information; or

(II) information in a consumer report.

(c) Reasonable procedures to assure compliance

No person shall be held liable for any violation of this section if he shows by a preponderance of the evidence that at the time of the alleged violation he maintained reasonable procedures to assure compliance with the provisions of this section.

(d) Duties of users making written credit or insurance solicitations on the basis of information contained in consumer files

(1) In general. Any person who uses a consumer report on any consumer in connection with any credit or insurance transaction that is not initiated by the consumer, that is provided to that person under section 1681b(c)(1)(B) of this title, shall provide with each written solicitation made to the consumer regarding the transaction a clear and conspicuous statement that –

(A) information contained in the consumer's consumer report was used in connection with the transaction;

(B) the consumer received the offer of credit or insurance because the consumer satisfied the criteria for credit worthiness or insurability under which the consumer was selected for the offer;

(C) if applicable, the credit or insurance may not be extended if, after the consumer responds to the offer, the consumer does not meet the criteria used to select the consumer for the offer or any applicable criteria bearing on credit worthiness or insurability or does not furnish any required collateral;

(D) the consumer has a right to prohibit information contained in the consumer's file with any consumer reporting agency from being used in connection with any credit or insurance transaction that is not initiated by the consumer; and

(E) the consumer may exercise the right referred to in subparagraph (D) by notifying a notification system established under section 1681b(e) of this title.

(2) Disclosure of address and telephone number. A statement under paragraph (1) shall include the address and toll-free telephone number of the appropriate notification system established under section 1681b(e) of this title.

(3) Maintaining criteria on file. A person who makes an offer of credit or insurance to a consumer under a credit or insurance transaction described in paragraph (1) shall maintain on file the criteria used to select the consumer to receive the offer, all criteria bearing on credit worthiness or insurability, as applicable, that are the basis for determining whether or not to extend credit or insurance pursuant to the offer, and any requirement for the furnishing of collateral as a condition of the extension of credit or insurance, until the expiration of the 3-year period beginning on the date on which the offer is made to the consumer.

(4) Authority of Federal agencies regarding unfair or deceptive acts or practices not affected. This section is not intended to affect the authority of any Federal or State agency to enforce a prohibition against unfair or deceptive acts or practices, including the making of false or misleading statements in connection with a credit or insurance transaction that is not initiated by the consumer.

§ 1681n. Civil liability for willful noncompliance

(a) In general

Any person who willfully fails to comply with any requirement imposed under this subchapter with respect to any consumer is liable to that consumer in an amount equal to the sum of –

(1) (A) any actual damages sustained by the consumer as a result of the failure or damages of not less than $100 and not more than $1,000; or

(B) in the case of liability of a natural person for obtaining a consumer report under false pretenses or knowingly without a permissible purpose, actual damages sustained by the consumer as a result of the failure or $1,000, whichever is greater;

(2) such amount of punitive damages as the court may allow; and

(3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

(b) Civil liability for knowing noncompliance

Any person who obtains a consumer report from a consumer reporting agency under false pretenses or knowingly without a permissible purpose shall be liable to the consumer reporting agency for actual damages sustained by the consumer reporting agency or $1,000, whichever is greater.

(c) Attorney's fees

Upon a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for purposes of harassment, the court shall award to the prevailing party attorney's fees reasonable in relation to the work expended in responding to the pleading, motion, or other paper.

§ 1681p. Jurisdiction of courts; limitation of actions

An action to enforce any liability created under this subchapter may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, within two years from the date on which the liability arises, except that where a defendant has materially and willfully misrepresented any information required under this subchapter to be disclosed to an individual and the information so misrepresented is material to the establishment of the defendant's liability to that individual under this subchapter, the action may be brought at any time within two years after discovery by the individual of the misrepresentation.

§ 1681q. Obtaining information under false pretenses

Any person who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses shall be fined under Title 18, imprisoned for not more than 2 years, or both.

§ 1681r. Unauthorized disclosures by officers or employees

Any officer or employee of a consumer reporting agency who knowingly and willfully provides information concerning an individual from the agency's files to a person not authorized to receive that information shall be fined under Title 18, imprisoned for not more than 2 years, or both.

§ 1681s. Administrative enforcement

(a) Federal Trade Commission; powers

(1) Enforcement by Federal Trade Commission. Compliance with the requirements imposed under this subchapter shall be enforced under the Federal Trade Commission Act [15 U.S.C.A. § 41 et seq.] by the Federal Trade Commission with respect to consumer reporting agencies and all other persons subject thereto, except to the extent that enforcement of the requirements imposed under this

subchapter is specifically committed to some other government agency under subsection (b) hereof. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement or prohibition imposed under this subchapter shall constitute an unfair or deceptive act or practice in commerce in violation of section 45(a) of this title and shall be subject to enforcement by the Federal Trade Commission under section 45(b) of this title with respect to any consumer reporting agency or person subject to enforcement by the Federal Trade Commission pursuant to this subsection, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act. The Federal Trade Commission shall have such procedural, investigative, and enforcement powers, including the power to issue procedural rules in enforcing compliance with the requirements imposed under this subchapter and to require the filing of reports, the production of documents, and the appearance of witnesses as though the applicable terms and conditions of the Federal Trade Commission Act were part of this subchapter. Any person violating any of the provisions of this subchapter shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act as though the applicable terms and provisions thereof were part of this subchapter.

(2) (A) In the event of a knowing violation, which constitutes a pattern or practice of violations of this subchapter, the Commission may commence a civil action to recover a civil penalty in a district court of the United States against any person that violates this subchapter. In such action, such person shall be liable for a civil penalty of not more than $2,500 per violation.

(B) In determining the amount of a civil penalty under subparagraph (A), the court shall take into

account the degree of culpability, any history of prior such conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(3) Notwithstanding paragraph (2), a court may not impose any civil penalty on a person for a violation of section 1681s-2(a)(1) of this title unless the person has been enjoined from committing the violation, or ordered not to commit the violation, in an action or proceeding brought by or on behalf of the Federal Trade Commission, and has violated the injunction or order, and the court may not impose any civil penalty for any violation occurring before the date of the violation of the injunction or order.

(4) Repealed. Pub.L. 106-102, Title V, § 506(b), Nov. 12, 1999, 113 Stat. 1442

(b) Enforcement by other agencies

Compliance with the requirements imposed under this subchapter with respect to consumer reporting agencies, persons who use consumer reports from such agencies, persons who furnish information to such agencies, and users of information that are subject to subsection (d) of section 1681m of this title shall be enforced under –

(1) section 8 of the Federal Deposit Insurance Act [12 U.S.C.A. § 1818], in the case of –

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the

Federal Reserve Act [12 U.S.C.A. §§ 601 et seq., 611 et seq.], by the Board of Governors of the Federal Reserve System; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act [12 U.S.C.A. § 1818], by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation.

(3) the Federal Credit Union Act [12 U.S.C.A. § 1751 et seq.], by the Administrator of the National Credit Union Administration with respect to any Federal credit union;

(4) subtitle IV of Title 49, by the Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Surface Transportation Board;

(5) part A of subtitle VII of Title 49, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part; and

(6) the Packers and Stockyards Act, 1921 [7 U.S.C.A. § 181 et seq.] (except as provided in section 406 of that Act [7 U.S.C.A. §§ 226, 227]), by the Secretary of Agriculture with respect to any activities subject to that Act.

The terms used in paragraph (1) that are not defined in this subchapter or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).

(c) State action for violations

(1) Authority of States. In addition to such other remedies as are provided under State law, if the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this subchapter, the State –

(A) may bring an action to enjoin such violation in any appropriate United States district court or in any other court of competent jurisdiction;

(B) subject to paragraph (5), may bring an action on behalf of the residents of the State to recover--

(i) damages for which the person is liable to such residents under sections 1681n and 1681o of this title as a result of the violation;

(ii) in the case of a violation of section 1681s-2(a) of this title, damages for which the person would, but for section 1681s-2(c) of this title, be liable to such residents as a result of the violation; or

(iii) damages of not more than $1,000 for each willful or negligent violation; and

(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

(2) Rights of Federal regulators. The State shall serve prior written notice of any action under paragraph (1) upon the Federal Trade Commission or the appropriate Federal regulator determined under subsection (b) of this section and provide the Commission or appropriate Federal regulator with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Federal Trade Commission or appropriate Federal regulator shall have the right –

(A) to intervene in the action;

(B) upon so intervening, to be heard on all matters arising therein;

(C) to remove the action to the appropriate United States district court; and

(D) to file petitions for appeal.

(3) Investigatory powers. For purposes of bringing any action under this subsection, nothing in this subsection shall prevent the chief law enforcement officer, or an official or agency designated by a State, from exercising the powers conferred on the chief law enforcement officer or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(4) Limitation on State action while Federal action pending. If the Federal Trade Commission or the appropriate Federal regulator has instituted a civil action or an administrative action under section 1818 of Title 12 for a violation of this subchapter, no State may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Commission or the appropriate Federal regulator for any violation of this subchapter that is alleged in that complaint.

(5) Limitations on State actions for violation of section 1681s-2(a)(1) of this title.

(A) Violation of injunction required. A State may not bring an action against a person under paragraph (1)(B) for a violation of section 1681s- 2(a)(1) of this title, unless –

(i) the person has been enjoined from committing the violation, in an action brought by the State under paragraph (1)(A); and

(ii) the person has violated the injunction.

(B) Limitation on damages recoverable. In an action against a person under paragraph (1)(B) for a violation of section 1681s-2(a)(1) of this title, a State may not recover any damages incurred before the date of the violation of an injunction on which the action is based.

(d) Enforcement under other authority

For the purpose of the exercise by any agency referred to in subsection (b) of this section of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this subchapter shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b) of this section, each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this subchapter any other authority conferred on it by law.

(e) Regulatory authority

(1) The Federal banking agencies referred to in paragraphs (1) and (2) of subsection (b) shall jointly prescribe such regulations as necessary to carry out the purposes of this subchapter with respect to any persons identified under paragraphs (1) and (2) of subsection (b), and the Board of Governors of the Federal Reserve System shall have authority to prescribe regulations consistent with such joint regulations with respect to bank holding companies and affiliates (other than depository institutions and consumer reporting agencies) of such holding companies.

(2) The Board of the National Credit Union Administration shall prescribe such regulations as necessary to

carry out the purposes of this subchapter with respect to any persons identified under paragraph (3) of subsection (b).

§ 1681t. Relation to State laws

(a) In general

Except as provided in subsections (b) and (c) of this section, this subchapter does not annul, alter, affect, or exempt any person subject to the provisions of this subchapter from complying with the laws of any State with respect to the collection, distribution, or use of any information on consumers, except to the extent that those laws are inconsistent with any provision of this subchapter, and then only to the extent of the inconsistency.

(b) General exceptions

No requirement or prohibition may be imposed under the laws of any State –

(1) with respect to any subject matter regulated under –

(A) subsection (c) or (e) of section 1681b of this title, relating to the prescreening of consumer reports;

(B) section 1681i of this title, relating to the time by which a consumer reporting agency must take any action, including the provision of notification to a consumer or other person, in any procedure related to the disputed accuracy of information in a consumer's file, except that this subparagraph shall not apply to any State law in effect on September 30, 1996;

(C) subsections (a) and (b) of section 1681m of this title, relating to the duties of a person who takes any adverse action with respect to a consumer;

(D) section 1681m(d) of this title, relating to the duties of persons who use a consumer report of a consumer

in connection with any credit or insurance transaction that is not initiated by the consumer and that consists of a firm offer of credit or insurance;

(E) section 1681c of this title, relating to information contained in consumer reports, except that this subparagraph shall not apply to any State law in effect on September 30, 1996; or

(F) section 1681s-2 of this title, relating to the responsibilities of persons who furnish information to consumer reporting agencies, except that this paragraph shall not apply –

(i) with respect to section 54A(a) of chapter 93 of the Massachusetts Annotated Laws (as in effect on September 30, 1996); or

(ii) with respect to section 1785.25(a) of the California Civil Code (as in effect on September 30, 1996);

(2) with respect to the exchange of information among persons affiliated by common ownership or common corporate control, except that this paragraph shall not apply with respect to subsection (a) or (c)(1) of section 2480e of title 9, Vermont Statutes Annotated (as in effect on September 30, 1996); or

(3) with respect to the form and content of any disclosure required to be made under section 1681g(c) of this title.

(c) Definition of firm offer of credit or insurance

Notwithstanding any definition of the term "firm offer of credit or insurance" (or any equivalent term) under the laws of any State, the definition of that term contained in section 1681a(l) of this title shall be construed to apply in the enforcement and interpretation of the laws of any State governing consumer reports.

(d) Limitations

Subsections (b) and (c) of this section –

(1) do not affect any settlement, agreement, or consent judgment between any State Attorney General and any consumer reporting agency in effect on September 30, 1996; and

(2) do not apply to any provision of State law (including any provision of a State constitution) that –

(A) is enacted after January 1, 2004;

(B) states explicitly that the provision is intended to supplement this subchapter; and

(C) gives greater protection to consumers than is provided under this subchapter.